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December 27, 2006

FILED ELECTRONICALLY

Honorable Gary L. Sharpe
United States District Court Judge
United States District Court
James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 12207

Re: *Price v. Albany County Board of Elections*; 06-CV-1083

Dear Judge Sharpe:

The Plaintiffs in the above referenced case are currently preparing a motion for summary judgment. At oral argument for a Temporary Restraining Order, the New York State Board of Elections presented to the Court it's legal basis for upholding the constitutionality of Election Law §7-122. Plaintiffs need the Board's arguments to prepare properly their summary judgment motion. However, because of the emergency nature of the TRO, the Board did not commit their argument to writing; it exists only in transcripts. I have made multiple requests to the court reporter for the transcripts; but due to her heavy caseload, I have not received them.

Additionally, plaintiffs need testimony from Albany County Board of Elections Commissioners. I have been in contact with the County Attorney to obtain affidavits for the Commissioners of the Board of Elections to support the plaintiff's motion for summary judgment. To date I have yet to reach an agreement with the County Attorney that would allow plaintiffs to obtain an affidavit. The Commissioner is away on vacation until January 15, 2007. I believe the easiest way to obtain testimony from the commissioners is by serving them with a notice of deposition.

On January 4th, 2007 Magistrate Judge Treece will hold a Rule 16 conference concerning this case. After the conference I will again advise the Court with respects to the plaintiff's timetable.

Sincerely,

/s

Tom Marcelle
TM/rb